

SERVICE DATE - AUGUST 22, 2000

This decision will be included in the bound volumes of the STB printed reports at a later date.

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
— CONTROL AND OPERATING LEASES/AGREEMENTS —
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 165

Decided: August 17, 2000

Environmental Condition No. 11 of Appendix Q of Decision No. 89¹ (Decision No. 89, slip op. at 401-02), requires Applicants, with the concurrence of the responsible local governments, to mitigate train wayside noise (locomotive engine and wheel/rail noise) at noise-sensitive receptor locations on certain rail line segments. Environmental Condition No. 11 further provides that: "Applicants shall certify compliance with this condition within 2 years of the effective date of the Board's final decision. This condition shall not apply to those communities that have executed Negotiated Agreements with Applicants that satisfy the communities' environmental concerns."

On July 11, 2000, CSX provided us with a copy of a Negotiated Agreement between CSX and the Borough of Fayette City, PA, dated June 6, 2000, and accepted by the Borough of Fayette City on June 14, 2000. According to CSX, this Negotiated Agreement effectuates the Board's preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153. CSX requests that Environmental Condition No. 11 be amended to reflect the parties' Negotiated Agreement by deleting the Borough of Fayette City² from the list of communities on the Sinns, PA, to Brownsville, PA line segment (C-085), and that the Negotiated Agreement between CSX

¹ In Decision No. 89, served July 23, 1998, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively, Conrail) and the division of Conrail's assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

² In Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 402), Fayette was listed as one of the communities on the Sinns, PA, to Brownsville, PA line segment. The correct name for this community should have been shown as Fayette City.

and the Borough of Fayette City be added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q in Decision No. 89, which requires CSX to comply with the terms of all Negotiated Agreements developed with states, local communities, and other entities regarding environmental issues associated with the Conrail transaction. See Decision No. 89, slip op. at 420-21. The Borough of Fayette City concurs with the request.

In view of the Negotiated Agreement between CSX and the Borough of Fayette City, we will: (1) add the Negotiated Agreement to Environmental Condition No. 51 of Appendix Q of Decision No. 89, and (2) amend Environmental Condition No. 11 of Appendix Q of Decision No. 89 to delete the Borough of Fayette City because the noise mitigation for that community has been superseded by the CSX/Borough of Fayette City Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. In accordance with the Negotiated Agreement between CSX and the Borough of Fayette City, PA, dated June 6, 2000, and accepted by the Borough of Fayette City on June 14, 2000, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

35. Borough of Fayette City, Pennsylvania, Negotiated Agreement dated June 6, 2000, and accepted by the Borough of Fayette City on June 14, 2000.

3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the noise mitigation applicable to the Borough of Fayette City, PA, because it has been superseded by the Negotiated Agreement.

4. This decision is effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams
Secretary